

DOCUMENT RESUME

03125 - [A2443589]

Funding for Health Resources Administration Move.  
B-164031(2).148. August 31, 1977. 9 pp. + 4 enclosures (4 pp.).

Decision re: Secretary, Department of Health, Education, and  
Welfare; by Robert F. Keller, Deputy Comptroller General.

Issue Area: Facilities and Material Management (700).  
Contact: Office of the General Counsel: General Government  
Matters.

Budget Function: General Government: General Property and  
Records Management (604).

Organization Concerned: Health Resources Administration.

Authority: Public Buildings Amendments of 1972 (P.L. 92-313; 86  
Stat. 218). (64 Stat. 1270; 40 U.S.C. 285; 40 U.S.C. 289;  
40 U.S.C. 304(c); 40 U.S.C. 486; 40 U.S.C. 490); 1950  
Reorganization Plan No. 18. 31 U.S.C. 628. 41 C.F.R.  
101-21.601. 35 Comp. Gen. 701. 34 Comp. Gen. 454. 33 Comp.  
Gen. 423. 27 Comp. Gen. 391. 22 Comp. Gen. 462. 50 Comp.  
Gen. 534. E-118803 (1954). B-86457 (1949). B-27024 (1942).  
Executive Order 11035. 39 Fed. Reg. 4888. 39 Fed. Reg. 4924.

The Secretary of the Department of Health, Education,  
and Welfare (HEW) questioned the proposed manner of funding for  
the move of the Health Resources Administration (HRA) to  
Hyattsville, Maryland. The interagency apportionment by HEW of  
HRA moving costs among the appropriations of other HEW  
constituent agencies which benefited from the move, on the basis  
of the amount of additional space made available to each agency,  
is proper if the apportioned part of the costs incurred was  
necessary or incident to meeting the space needs of each  
constituent agency. (Author/SC)

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**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D.C. 20548

George Kialan

GOM

FILE: B-184031(2).148

DATE: August 31, 1977

MATTER OF: Funding for Health Resources Administration  
Move

- DIGEST:
1. To the extent one agency requires the relocation of another to meet its own space needs and the relocation is performed for the benefit of the requesting agency, its appropriations, not those of the relocated agency, are available to pay the cost of the relocated agency's move. The appropriations of the relocated agency would not be available to that same extent since the costs incurred are not necessary for it to carry out the purposes of its appropriations. See cases overruled.
  2. Intraagency apportionment by HEW of Health Resources Administration moving costs among appropriations of other HEW constituent agencies which benefitted from move, on basis of amount of additional space made available to each agency, is proper if apportioned part of costs incurred was necessary or incident to meeting space needs of each constituent agency.

This decision is to the Secretary, Department of Health, Education, and Welfare (HEW), concerning the proposed manner of funding for the move of the Health Resources Administration (HRA), Public Health Service (PHS), HEW, to Prince George's Center, Hyattsville, Maryland.

The reorganization of PHS in July 1973 resulted in the establishment of six health agencies, one of which was HRA. Each of these health agencies has continued to expand its operations in Montgomery County, Maryland, since that time. The employees of HRA were located in three separate buildings in Montgomery County. Because of the increasing space needs of all the organizational units within PHS, including HRA, it became necessary for PHS to request additional space from the General Services Administration (GSA). Since there was apparently no additional space available at comparable rental rates in Montgomery County, Maryland, near the other PHS

occupied office space, GSA made available the Prince Georges Plaza Building, in adjoining Prince Georges County, Maryland, which was being vacated by the Navy.

According to a report dated March 28, 1977, concerning this matter from HEW, PHS had two broad alternatives when the space was requested: (1) to locate in the new space all the additional employees of each of the several agencies which were expanding, or (2) to use the opportunity to consolidate the additional number of employees of each of the scattered agencies into one location for each agency. The latter alternative was selected because PHS determined that it would provide for a more efficient operation. As stated by HEW, in its submission of March 28, 1977:

"\* \* \* Such a move by HRA would consolidate its employees at that location, albeit one removed from the central offices of PHS in the Parklawn Building, and simultaneously permit the expansion of NIH operations on its own campus. Moreover, agencies such as the Food and Drug Administration, the Alcohol, Drug Abuse, and Mental Health Administration, and the Health Services Administration could, by using space being vacated, expand into contiguous space. The decision also avoided any further dispersion of those agencies in the future in relation to their additional employees."

HRA contracted with GSA to make certain alterations to Prince Georges Plaza to meet its needs. See, in this regard, our Report, "Proposed Moves of Certain Agencies in the National Capital Region" LCD-77-309, January 27, 1977, on this matter for an explication of the details of the move. Pursuant to the statutory provisions discussed below the alterations were to be performed on a reimbursable basis. The total amount of the reimbursable charges arising out of the alterations, according to HEW, is \$1 million.\* Rather than charge the full cost to HRA funds, it was decided to charge the costs of the move to the various health agencies and other organizational units within HEW (henceforth collectively referred to as "agencies") purportedly benefitting from the move, on the basis of the amount of additional space made available to each. HEW's submission indicates, in this regard, as follows:

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\*We have been informally advised by HEW personnel, that the difference between this figure and that reported in our Report, LCD-77-309, supra, is due to funding by GSA of the remainder of the cost.

"\* \* \* Since the reason for securing additional space was to meet the needs of the several expanding programs and, at the same time, to effect consolidation, it was decided that each component of PHS and the other organizational units involved should share in the cost of the special services in direct proportion to the additional space each was acquiring through the planned moves, which included not only the move of HRA into Prince Georges Plaza but also the expansion of the other organizational units into space made available as a result of the moves. The money for that purpose was to be provided out of direct operating funds of the several organizational units involved as follows:

<u>"Organizational Unit</u>	<u>Estimated Gain of New Space in Square Feet</u>	<u>Share of Cost</u>
Office of The Assistant Secretary for Health Alcohol, Drug Abuse, and Mental Health Administration	9,000	38,000
Center for Disease Control	7,000	30,000
Food and Drug Administration	10,000	42,000
Health Resources Administration	45,000	191,000
Health Services Administration	35,000	148,000
National Institutes of Health	38,000	161,000
	<u>92,000</u>	<u>390,000</u>
Total	236,000	\$1,000,000"

HEW, in effect, presents three reasons for this manner of funding. First, it contends that the agencies acquiring additional space are benefiting directly or indirectly from the HRA move, and should therefore pay a proportional share of the costs. Second, six organizational units are actually involved in the moves and are being consolidated, and since the decision to move HRA to Prince Georges Plaza permitted such consolidation for the benefit of PHS, as a whole, and its constituent units

individually, the concept of apportioning costs among those units is grounded in good management, policy, and economy. Finally, HEW suggests that the proposed manner of funding is specifically authorized by GSA's Federal Property Management Regulations, at 41 C.F.R. § 101-21.601(b)(1976), set forth infra.

We have on several occasions considered the question of funding for an agency's move, when it is precipitated not at its own request, but rather by a request or demand of another agency which desired or needed such space for its own purposes. See, in this regard, 35 Comp. Gen. 701 (1956), 34 Comp. Gen. 454 (1955), 33 Comp. Gen. 423 (1954), 27 Comp. Gen. 391 (1948), 22 Comp. Gen. 462 (1942), B-118803, February 24, 1954, B-86457, June 3, 1949, and B-27024, July 7, 1942. In each of the cases cited above we determined that the appropriations of the agency requesting the move could not be used to pay for the moving or related costs (including lease payments or construction costs for replacement space) of the moving agency. The three basic rationales underlying our decisions were as follows:

1. Use of appropriations of the requesting agency would augment the appropriations of the moving agency;
2. The appropriations of the requesting agencies were not available for funding space requirements of other agencies, and their use would therefore violate 31 U.S.C. § 628 (1970) which provides that appropriations are available solely for the objects for which they were made; and
3. GSA may require payments, to the extent that its appropriations are insufficient, from agencies to which space is assigned, to fund the expenses of moving and the costs of rent, and therefore reimbursements for such costs to GSA may only be made by the agency which is moving into leased quarters.

GSA has been given broad authority over the management of public buildings. It is empowered to furnish space and related services to the agencies, to assign and reassign the space acquired, and to charge rental therefor (usually referred to as Standard Level User Charge (SLUC)). GSA may also provide additional special services on a reimbursable basis. Monies received from SLUC or from special services are deposited into the Public Buildings Fund established by the Public Buildings Amendments of 1972, Pub. L. No. 92-313, June 13, 1972, 86 Stat. 218. GSA has issued statutory regulations to carry out

its functions under the Act, as amended. Pertinent statutory provisions include 40 U.S.C. §§ 285, 289, 304c, 486, 490, and 490 nt. (1950 Reorganization Plan No. 18, 64 Stat. 1270, July 1, 1950). In particular, 40 U.S.C. §§ 490(f)(6) and (j) (Supp. V, 1975) provide respectively as follows:

40 U.S.C. § 490(f)(6):

"(6) Nothing in this section shall preclude the Administrator from providing special services not included in the standard level user charge on a reimbursable basis and such reimbursements may be credited to the fund established under this subsection."

40 U.S.C. § 490(j):

"(j) The Administrator is authorized and directed to charge anyone furnished services, space, quarters, maintenance, repair, or other facilities (hereinafter referred to as space and services), at rates to be determined by the Administrator from time to time and provided for in regulations issued by him. Such rates and charges shall approximate commercial charges for comparable space and services, except that with respect to those buildings for which the Administrator of General Services is responsible for alterations only (as the term 'alter' is defined in section 612(5) of this title), the rates charged the occupant for such services shall be fixed by the Administrator so as to recover only the approximate applicable cost incurred by him in providing such alterations. The Administrator may exempt anyone from the charges required by this subsection if he determines that such charges would be infeasible or impractical. To the extent any such exemption is granted, appropriations to the General Services Administration are authorized to reimburse the fund for any loss of revenue."

See also 40 U.S.C. §§ 304c and 304d (1970). Section 486(c) of title 40 grants general authority to the Administrator to issue regulations to carry out his functions under the Act.

Various Executive Orders have further delineated GSA's functions under the Act. Two separate Executive Orders have provided, in effect, that space assignment should be accomplished after consideration of the

following factors, among others: (1) economy and efficiency of Government activity; (2) consolidation of Federal agencies; and (3) consultation with Federal agencies as to their perceived requirements. See Executive Order No. 11512, February 27, 1970, 40 U.S.C. § 490 note (1970), which superseded a prior Executive Order (No. 11035, July 9, 1962) with similar provisions. Executive Order No. 11512 provides in pertinent part as follows:

"Sec. 2. (a) The Administrator, and the heads of executive agencies, shall be guided by the following policies for the acquisition, assignment, reassignment, and utilization of office buildings and space in the United States:

"(1) Material consideration shall be given to the efficient performance of the missions and programs of the executive agencies and the nature and function of the facilities involved, with due regard for the convenience of the public served and the maintenance and improvement of safe and healthful working conditions for employees;

\* \* \* \* \*

"(5) Space planning and assignments shall take into account the objective of consolidating agencies and constituent parts thereof in common or adjacent space for the purpose of improving management and administration; (Emphasis added.)

To carry out these legislative and Executive mandates, GSA has promulgated the Federal Property Management Regulations. As originally proposed and published in the Federal Register on February 8, 1974 (39 F.R. 4888, 4924), proposed section 101-21.601 of title 41, Code of Federal Regulations (FPMR) provided as follows:

"§101-21.601 Budgeting information for standard level user charges.

"(a) GSA provides to agencies summary level and detailed documentation in support of budgetary information it submits for the space and related services it furnishes. The documentation identifies organizations and organizational elements by an agency and bureau code numbering system.

"(b) Agencies reassigned space as a result of reassignment directed by GSA at space and related service charges higher than that budgeted for are billed for charges applicable to the space assigned immediately preceding the reassignment until the first fiscal year that funds for the higher cost space can be budgeted for. Agencies reassigned space as a result of reassignment [sic] directed by GSA at space and related service charges lower than that occupied immediately preceding the reassignment are billed for charges applicable to the newly assigned space.

"(c) Agencies reassigned space as a result of reassignment requested by the agency at space and related service charges either higher or lower than that budgeted for are billed for charges applicable in the newly assigned space."

As finally amended and adopted, a new subsection (b) was added to provide:

"(b) Federal agencies that require relocation of other agencies because of expanding space needs are responsible for funding (1) moving and related costs incurred by GSA in relocating displaced agencies and, (2) with respect to that amount of replacement space for the space previously occupied by the displaced agency(ies), such alterations above the standard provided by GSA as are required to make such amount of replacement space comparable to such previously occupied space on a square foot for square foot basis."

We have been informally advised by GSA personnel that several agencies requested the insertion of subsection (b) as now constituted because of concern that one Federal agency, after consultation with the GSA as provided in the Executive Orders noted above, might request or demand that another agency vacate certain space to permit consolidation of the first agency. Subsection (b) as currently constituted was inserted to assure that the moving agency would be compensated for any moves not made at its request.

41 C.F.R. § 101-21.601(b) is a statutory regulation issued pursuant to GSA's broad authority, outlined above, to provide and charge for space and services provided by it in the manner it deems most appropriate. By itself, however, 41 C.F.R. § 101-21.601(b) cannot make an



agency's appropriations available for objects for which it could not otherwise be used. As noted above, our prior decisions have stated that the appropriations of an agency requesting or demanding a move by another agency were not available for funding the space requirements of such other agency and, such use of appropriations would violate 31 U.S.C. §628 and augment the appropriations of the moving agency. We have reconsidered these holdings.

Appropriations of the various agencies are generally made available to meet space needs and related costs. It is a long established principle that when an appropriation is made for a particular object, it confers, by implication, authority to incur expenses which are necessary or incident to the proper execution of the object. See, e.g., 50 Comp. Gen. 534 (1971). Having fully reviewed the matter, we are now of the view that when one agency requires the relocation of another to meet its own space requirements, the relocation is done for the benefit of the requesting agency. Therefore, we now believe that the costs of the move must be considered necessary or incident to meeting the space needs of the requesting agency. Use of the requesting agency's appropriations would not, therefore, augment the appropriations of the displaced agency. In fact, to the extent the move and related renovations to accommodate the displaced agency are made due to the request of another agency, the costs thereof cannot be considered necessary to further the purposes of the displaced agency's appropriations. Hence, the displaced agency's appropriations are not available to pay those expenses.

-Accordingly, charges assessed by GSA pursuant to 41 C.F.R. § 101-21.601(b) against an agency requiring the relocation of another, to reimburse GSA for moving and related costs incurred by GSA in relocating the displaced agency, may properly be paid by the agency charged.

To the extent inconsistent, 35 Comp. Gen. 701 (1956); 34 Comp. Gen. 454 (1955); 33 Comp. Gen. 423 (1954); 27 Comp. Gen. 391 (1949); 22 Comp. Gen. 462 (1942); B-118803, February 24, 1954; B-86457, June 3, 1949; and B-27024, July 7, 1942 are hereby overruled.

It remains to consider whether HEW may apportion the charges assessed by GSA against it for costs incurred in connection with the HRA move in the manner noted above. The HRA move will permit consolidation of seven separate agencies and organizational elements of HEW. While it will provide space in one central location for HRA, and is therefore for the benefit of HRA, by freeing space to be made available to six other constituent agencies within HEW, the move is also of benefit to those agencies. This is especially evident when it is considered that the additional space in Prince Georges Plaza could

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have been made available to meet the increased space needs of all seven elements of HEW. Instead, however, PHS, of which HRA is a constituent part, made a management decision to utilize the additional space to consolidate all those elements, which were previously scattered in several locations.

In light of above, it is our view that the apportionment of costs by HEW among the appropriations available to various organizational elements of HEW resulted in the use of those appropriations for expenses incident or necessary to the objects for which they were made--i.e., to provide for, among other things, the space needs of each individual agency--and did not constitute an augmentation of HRA's appropriation.

*Atkinson*  
Deputy

Comptroller General  
of the United States



COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON, D.C. 20548

*B. K. Miller*  
*(66)*

B-164031(2).148

August 31, 1977

The Honorable Henry A. Waxman  
House of Representatives

Dear Mr. Waxman:

In our report to you "Proposed Moves of Certain Agencies in the National Capital Region" (LCD-77-309), dated January 27, 1977, we indicated that we would provide supplemental views concerning the legality of the proposed manner of funding for the move by the Health Resources Administration (HRA) to Prince Georges Center, Hyattsville, Maryland.

Our decision of this date to the Secretary, Department of Health, Education, and Welfare (HEW), Funding for Health Resources Administration Move (B-164031(2).148) (copy enclosed), indicates that the move by HRA was made for the benefit not only of HRA but also of six other constituent agencies or organizational elements of HEW, and that appropriations of those agencies may be made available for funding of the move, to the extent benefitted thereby, as measured by the amount of additional space made available to each agency.

Sincerely yours,

*B. K. Miller*  
Deputy Comptroller General  
of the United States

Enclosure



COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON, D.C. 20548

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August 31, 1977

The Honorable J. Glenn Beall, Jr.  
4938 Western Avenue, N.W.  
Washington, D.C. 20016

Dear Mr. Beall:

In our report to you "Proposed Moves of Certain Agencies in the National Capital Region" (LCD-77-309), dated January 27, 1977, we indicated that we would provide supplemental views concerning the legality of the proposed manner of funding for the move by the Health Resources Administration (HRA) to Prince Georges Center, Hyattsville, Maryland.

Our decision of this date to the Secretary, Department of Health, Education, and Welfare (HEW), Funding for Health Resources Administration Move (B-164031(2).148) (copy enclosed), indicates that the move by HRA was made for the benefit not only of HRA but also of six other constituent agencies or organizational elements of HEW, and that appropriations of those agencies may be made available for funding of the move, to the extent benefitted thereby, as measured by the amount of additional space made available to each agency.

Sincerely yours,

*Patrick*  
Deputy Comptroller General  
of the United States

Enclosure



COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON, D.C. 20548

*B. Keelina*  
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B-164031(2).148

August 31, 1977

The Honorable Gilbert Gude  
Congressional Research Service  
Library of Congress  
Washington, D.C. 20540

Dear Mr. Gude:

In our report to you "Proposed Moves of Certain Agencies in the National Capital Region" (LCD-77-309), dated January 27, 1977, we indicated that we would provide supplemental views concerning the legality of the proposed manner of funding for the move by the Health Resources Administration (HRA) to Prince Georges Center, Hyattsville, Maryland.

Our decision of this date to the Secretary, Department of Health, Education, and Welfare (HEW), Funding for Health Resources Administration Move (B-164031(2).148) (copy enclosed), indicates that the move by HRA was made for the benefit not only of HRA but also of six other constituent agencies or organizational elements of HEW, and that appropriations of those agencies may be made available for funding of the move, to the extent benefitted thereby, as measured by the amount of additional space made available to each agency.

Sincerely yours,

Deputy

*R. Keelina*  
Comptroller General  
of the United States

Enclosure

UNITED STATES GOVERNMENT

*D. Keelmar*  
GENERAL ACCOUNTING OFFICE 66D

# Memorandum

TO : Director, LCD

August 31, 1977

*M. Jordan*  
FROM: *27* General Counsel - Paul G. Dembling

SUBJECT: Funding for Health Resources Administration Move - B-164031(2).148

By memorandum dated January 25, 1977, Joseph P. Normile, Associate Director, LCD/FAM, requested our views concerning the legality of the proposed manner of funding for the move of the Health Resources Administration to Prince Georges Center, Hyattsville, Maryland.

Pursuant to agreement with your staff, we have today issued a decision concerning this matter, Funding for Health Resources Administration Move, B-164031(2).148 (copy attached) to the Secretary, Department of Health, Education, and Welfare. A copy of the decision, with a cover letter, is also being sent to Representative Henry A. Waxman, the Honorable Gilbert Gude, and the Honorable J. Glenn Beall, Jr., for whom the original report concerning the move (LCD-77-309, January 27, 1977), was prepared.

Our decision concludes that the HRA move directly benefitted several other constituent agencies, and that therefore the amount of the costs of the move proposed to be charged to the applicable appropriations of each agency may be considered necessary or incident to the procurement of space for those agencies, and is therefore authorized.

Attachments